

HOUSE BILL 496

D4, E1

2lr0957

By: **Delegates Impallaria, Bates, Boteler, Cluster, DeBoy, Elliott, Glass, James, McComas, McDonough, Minnick, Norman, and O'Donnell**

Introduced and read first time: February 2, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Failure to Report – Penalties**

3 FOR the purpose of establishing that certain persons who are required to provide
4 certain notice and make certain reports of suspected child abuse or neglect,
5 while acting in their professional capacities, may not knowingly fail to give the
6 notice or make the reports; establishing that any other person, under certain
7 circumstances, who has reason to believe a child has been subjected to child
8 abuse or neglect and who is required to report the suspected child abuse or
9 neglect to the local department of human resources or appropriate law
10 enforcement agency may not knowingly fail to provide the required report;
11 establishing that it is a misdemeanor for certain persons to knowingly fail to
12 report child abuse or neglect; providing certain penalties for a violation of this
13 Act; and generally relating to child abuse and neglect.

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 5–704 and 5–705
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2011 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Family Law**

22 5–704.

23 (a) Notwithstanding any other provision of law, including any law on
24 privileged communications, each health practitioner, police officer, educator, or human
25 service worker, acting in a professional capacity in this State:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) who has reason to believe that a child has been subjected to abuse
2 or neglect, shall notify the local department or the appropriate law enforcement
3 agency; and

4 (2) if acting as a staff member of a hospital, public health agency, child
5 care institution, juvenile detention center, school, or similar institution, shall
6 immediately notify and give all information required by this section to the head of the
7 institution or the designee of the head.

8 (b) (1) An individual who notifies the appropriate authorities under
9 subsection (a) of this section shall make:

10 (i) an oral report, by telephone or direct communication, as
11 soon as possible to the local department or appropriate law enforcement agency; and

12 (ii) a written report:

13 1. to the local department not later than 48 hours after
14 the contact, examination, attention, or treatment that caused the individual to believe
15 that the child had been subjected to abuse or neglect; and

16 2. with a copy to the local State's Attorney.

17 (2) (i) An agency to which an oral report of suspected abuse or
18 neglect is made under paragraph (1) of this subsection shall immediately notify the
19 other agency.

20 (ii) This paragraph does not prohibit a local department and an
21 appropriate law enforcement agency from agreeing to cooperative arrangements.

22 (c) Insofar as is reasonably possible, an individual who makes a report under
23 this section shall include in the report the following information:

24 (1) the name, age, and home address of the child;

25 (2) the name and home address of the child's parent or other person
26 who is responsible for the child's care;

27 (3) the whereabouts of the child;

28 (4) the nature and extent of the abuse or neglect of the child, including
29 any evidence or information available to the reporter concerning possible previous
30 instances of abuse or neglect; and

31 (5) any other information that would help to determine:

- 1 (i) the cause of the suspected abuse or neglect; and
2 (ii) the identity of any individual responsible for the abuse or
3 neglect.

4 **(D) A PERSON WHO IS REQUIRED TO PROVIDE NOTICE OF SUSPECTED**
5 **ABUSE OR NEGLECT OF A CHILD AND MAKE AN ORAL AND A WRITTEN REPORT**
6 **OF SUSPECTED ABUSE OR NEGLECT OF A CHILD UNDER THIS SECTION MAY NOT**
7 **KNOWINGLY FAIL TO PROVIDE THE REQUIRED NOTICE OR MAKE THE REQUIRED**
8 **ORAL OR WRITTEN REPORT.**

9 **(E) A PERSON WHO VIOLATES SUBSECTION (D) OF THIS SECTION IS**
10 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT**
11 **EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.**

12 5–705.

13 (a) (1) Except as provided in paragraphs (2) and (3) of this subsection,
14 notwithstanding any other provision of law, including a law on privileged
15 communications, a person in this State other than a health practitioner, police officer,
16 or educator or human service worker who has reason to believe that a child has been
17 subjected to abuse or neglect shall notify the local department or the appropriate law
18 enforcement agency.

19 (2) A person is not required to provide notice under paragraph (1) of
20 this subsection:

21 (i) in violation of the privilege described under § 9–108 of the
22 Courts Article;

23 (ii) if the notice would disclose matter communicated in
24 confidence by a client to the client's attorney or other information relating to the
25 representation of the client; or

26 (iii) in violation of any constitutional right to assistance of
27 counsel.

28 (3) A minister of the gospel, clergyman, or priest of an established
29 church of any denomination is not required to provide notice under paragraph (1) of
30 this subsection if the notice would disclose matter in relation to any communication
31 described in § 9–111 of the Courts Article and:

32 (i) the communication was made to the minister, clergyman, or
33 priest in a professional character in the course of discipline enjoined by the church to
34 which the minister, clergyman, or priest belongs; and

1 (ii) the minister, clergyman, or priest is bound to maintain the
2 confidentiality of that communication under canon law, church doctrine, or practice.

3 (b) (1) An agency to which a report of suspected abuse or neglect is made
4 under subsection (a) of this section shall immediately notify the other agency.

5 (2) This subsection does not prohibit a local department and an
6 appropriate law enforcement agency from agreeing to cooperative arrangements.

7 (c) A report made under subsection (a) of this section may be oral or in
8 writing.

9 (d) (1) To the extent possible, a report made under subsection (a) of this
10 section shall include the information required by § 5-704(c) of this subtitle.

11 (2) A report made under subsection (a) of this section shall be
12 regarded as a report within the provisions of this subtitle, whether or not the report
13 contains all of the information required by § 5-704(c) of this subtitle.

14 **(E) A PERSON WHO IS REQUIRED TO PROVIDE A REPORT OF SUSPECTED**
15 **ABUSE OR NEGLECT OF A CHILD UNDER SUBSECTION (A) OF THIS SECTION MAY**
16 **NOT KNOWINGLY FAIL TO PROVIDE THE REQUIRED REPORT.**

17 **(F) A PERSON WHO VIOLATES SUBSECTION (E) OF THIS SECTION IS**
18 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT**
19 **EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2012.